



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

Application no. 41388/07
Yevgeniy Yuryevich SVINTAKOV
against Russia
lodged on 30 August 2007

STATEMENT OF FACTS

THE FACTS

The applicant, Mr Yevgeniy Yuryevich Svintakov, is a Russian national, who was born in 1974 and lives in Orsk. He is represented before the Court by Ms O.A. Sadovskaya, a lawyer practising in Nizhniy Novgorod.

In 1999 the applicant was convicted of a robbery and was sentenced to five years of imprisonment. He was serving the prison term in the correctional facility YuK 25/3 (IOK 25/3) in Novotroitsk. He was in good health until on 1 August 2003 he sustained cranial injuries, allegedly as a result of ill-treatment by the facility wardens.

According to the applicant, in prison he had an unofficial status (an “authority”), which meant that he was recognised by the administration as someone who could be relied on for maintaining the order among the fellow prisoners. However, he was confronted at some stage with the warden K. with whom he had had a conflict in the remote past. On 1 August 2003 K. ordered the applicant into his office and offered him to drink vodka together. The applicant refused, and K. punched him on the face and at this moment two other wardens came in; K. told them “to finish him off”. The three of them began kicking and hitting the applicant until he passed out. He came back in a cell and heard some shouting from other prisoners, apparently calling for the facility officials to render him medical assistance. Apparently they also managed to inform the colony superiors, the applicant’s lawyer and his family of the incident. The applicant heard K. saying to the others “let him die” and he threatened that he would cut his veins. K. told him to go ahead, so he proceeded to the action, slashing his wrist with a razor. At this moment the applicant’s family arrived at the

correctional facility, with the lawyer, and arranged for the applicant to be sent to the town hospital.

At the town hospital, the applicant underwent an x-ray. He was prescribed treatment for skull injuries and then was referred to the prison hospital for three months. He was subsequently assigned first-degree disability status (which relates to the most grave conditions), and after the three months in the prison hospital he was released on parole on health grounds.

According to the official files, on 1 August 2003 the applicant was brought to the prison wardens' office allegedly because he had been found in a state of alcoholic intoxication. He was then placed in a disciplinary cell where he allegedly intentionally cut his right arm. Medical assistance was provided to him, and afterwards he was placed in a temporary detention cell.

On 2 August 2008 the applicant was found lying on the floor of the cell with skull injuries. He was taken to the town hospital for emergency care.

On 1 October 2003 the prosecutor's office decided not to institute criminal proceedings into the incident, having found that the applicant's injuries were self-inflicted in the state of alcoholic intoxication.

On 23 December 2003, however, the prosecutor's office opened criminal investigation into the suspected ill-treatment.

On 23 April 2004 the investigation was suspended.

On 12 April 2005 the suspension of the investigation was lifted and it resumed.

On 23 September 2005 the investigation was suspended.

On 12 December 2005 the suspension of the investigation was quashed and it resumed again.

On 15 December 2005 the investigation was suspended.

On 2 March 2006 the suspension of the investigation was quashed and it resumed again.

On 3 March 2006 the investigation was suspended.

On 21 October 2006 the suspension of the investigation was quashed and it resumed again.

On 21 November 2006 the investigation was suspended.

On 5 February 2007 the Leninskiy District Court of Orenbourg quashed the suspension of the investigation on the grounds of the breaches in the criminal procedure.

On 13 July 2007 the Leninskiy District Court of Orenbourg quashed the suspension of the investigation on the grounds of the multiple shortcomings, notably the investigator's failure to notify the applicant about the decisions taken in the criminal case and the failure to take all possible measures to establish the perpetrators.

On 15 March 2007 the investigator suspended the investigation.

On 12 November 2008 the prosecutor's office reviewed the file, quashed the suspension and ordered the investigation to be resumed in accordance with the court's instructions of 13 July 2007.

On 19 November 2008 the investigator questioned the applicant as a victim. The applicant reiterated his account of events. On 24 November 2008 the applicant's counsel requested the investigating authorities to conduct a number of investigative measures in addition to those listed by the court and the prosecutor's office. On 28 November 2008 the request was

granted in part, having ordered, most importantly, to question certain persons, in confrontation with the applicant.

There is no information on the outcome of the investigation.

COMPLAINTS

The applicant complains under Article 3 of the Convention about the ill-treatment by the prison wardens on 1 and 2 August 2003.

He also complains under Articles 3 and 13 of the Convention about the authorities' failure to conduct an effective investigation into the alleged ill-treatment.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to torture, inhuman or degrading treatment, in breach of Article 3 of the Convention?

2. Having regard to the procedural protection from torture, inhuman or degrading treatment, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention?

3. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 3, as required by Article 13 of the Convention?